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Protection of persons in the event of disasters

Texts and titles of the draft articles adopted by the Drafting Committee on first reading

Protection of persons in the event of disasters

Article 1 [1][1]
Scope

The present draft articles apply to the protection of persons in the event of disasters.

Article 2 [2]
Purpose

The purpose of the present draft articles is to facilitate an adequate and effective response to disasters that meets the essential needs of the persons concerned, with full respect for their rights.

Article 3 [3]
Definition of disaster

"Disaster" means a calamitous event or series of events resulting in widespread loss of life, great human suffering and distress, or large-scale material or environmental damage, thereby seriously disrupting the functioning of society.

Article 4
Use of terms

For the purposes of the present draft articles:

[1] The numbers of the draft articles, as previously provisionally adopted by the Commission, are indicated in square brackets.

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(a) "affected State" means the State in the territory or otherwise under the jurisdiction or control of which persons, property or the environment are affected by a disaster;

(b) "assisting State" means a State providing assistance to an affected State at its request or with its consent;

(c) "other assisting actor" means a competent intergovernmental organization, or a relevant non-governmental organization or any other entity or individual external to the affected State, providing assistance to that State at its request or with its consent;

(d) "external assistance" means relief personnel, equipment and goods, and services provided to an affected State by assisting States or other assisting actors for disaster relief assistance or disaster risk reduction;

(e) "relief personnel" means civilian or military personnel sent by an assisting State or other assisting actor for the purpose of providing disaster relief assistance or disaster risk reduction;

(f) "equipment and goods" means supplies, tools, machines, specially trained animals, foodstuffs, drinking water, medical supplies, means of shelter, clothing, bedding, vehicles and other objects for disaster relief assistance or disaster risk reduction.

Article 5 [7]
Human dignity

In responding to disasters, States, competent intergovernmental organizations and relevant non-governmental organizations shall respect and protect the inherent dignity of the human person.

Article 6 [8]
Human rights

Persons affected by disasters are entitled to respect for their human rights.

Article 7 [6]
Humanitarian principles

Response to disasters shall take place in accordance with the principles of humanity, neutrality and impartiality, and on the basis of non-discrimination, while taking into account the needs of the particularly vulnerable.

Article 8 [5]
Duty to cooperate

In accordance with the present draft articles, States shall, as appropriate, cooperate among themselves, and with the United Nations and other competent intergovernmental organizations, the International Federation of Red Cross and Red Crescent Societies and the International Committee of the Red Cross, and with relevant non-governmental organizations.

Article 9 [5 *bis*]
Forms of cooperation

For the purposes of the present draft articles, cooperation includes humanitarian assistance, coordination of international relief actions and communications, and making available relief personnel, equipment and goods, and scientific, medical and technical resources.

Article 10 [5 *ter*]
Cooperation for disaster risk reduction

Cooperation shall extend to the taking of measures intended to reduce the risk of disasters.

Article 11 [16]
Duty to reduce the risk of disasters

1. Each State shall reduce the risk of disasters by taking the necessary and appropriate measures, including through legislation and regulations, to prevent, mitigate, and prepare for disasters.

2. Disaster risk reduction measures include the conduct of risk assessments, the collection and dissemination of risk and past loss information, and the installation and operation of early warning systems.

Article 12 [9]
Role of the affected State

1. The affected State, by virtue of its sovereignty, has the duty to ensure the protection of persons and provision of disaster relief and assistance on its territory.

2. The affected State has the primary role in the direction, control, coordination and supervision of such relief and assistance.

Article 13 [10]
Duty of the affected State to seek external assistance

To the extent that a disaster exceeds its national response capacity, the affected State has the duty to seek assistance from among other States, the United Nations, other competent intergovernmental organizations and relevant non-governmental organizations, as appropriate.

Article 14 [11]
Consent of the affected State to external assistance

1. The provision of external assistance requires the consent of the affected State.

2. Consent to external assistance shall not be withheld arbitrarily.

3. When an offer of assistance is extended in accordance with the present draft articles, the affected State shall, whenever possible, make its decision regarding the offer known.

Article 15 [13]
Conditions on the provision of external assistance

The affected State may place conditions on the provision of external assistance. Such conditions shall be in accordance with the present draft articles, applicable rules of international law, and the national law of the affected State. Conditions shall take into account the identified needs of the persons affected by disasters and the quality of the assistance. When formulating conditions, the affected State shall indicate the scope and type of assistance sought.

Article 16 [12]
Offers of external assistance

In responding to disasters, States, the United Nations, and other competent intergovernmental organizations have the right to offer assistance to the affected State. Relevant non-governmental organizations may also offer assistance to the affected State.

Article 17 [14]
Facilitation of external assistance

1. The affected State shall take the necessary measures, within its national law, to facilitate the prompt and effective provision of external assistance regarding, in particular:

(a) civilian and military relief personnel, in fields such as privileges and immunities, visa and entry requirements, work permits, and freedom of movement; and

(b) equipment and goods, in fields such as customs requirements and tariffs, taxation, transport, and disposal thereof.

2. The affected State shall ensure that its relevant legislation and regulations are readily accessible, to facilitate compliance with national law.

Article 18
Protection of relief personnel, equipment and goods

The affected State shall take the appropriate measures to ensure the protection of relief personnel, equipment and goods present in its territory for the purpose of providing external assistance.

Article 19 [15]
Termination of external assistance

The affected State and the assisting State, and as appropriate other assisting actors, shall consult with respect to the termination of external assistance and the modalities of termination. The affected State, the assisting State, or other assisting actor wishing to terminate shall provide appropriate notification.

Article 20
Relationship to special or other rules of international law

The present draft articles are without prejudice to special or other rules of international law applicable in the event of disasters.

Article 21 [4]
Relationship to international humanitarian law

The present draft articles do not apply to situations to which the rules of international humanitarian law are applicable.